Mr. Fullerton-No; my question is in harmony with that de-cision. All that I wish to know is what else was said at that

time, in that examination, with regard to the subject matter embodied in the question and inquiry.

Jucke Netison—It is a natural, elementary principle of law, not needing any decision from the Court of Appeals; a business man might recognize it. Now, confine yourself within that. Mr. Evarts-The trouble is the question is not confined. Your

Hence gives directions.

Mr. Pullerton - I will put a question. [To the witness.] Mr. Titton, having heard the question and answer embodied in the question put by Mr. Everts upon the cross-examination, I sak you what further was said by you before that Committee with reference to the subject matter of that question and answer?

A. Well, in the first place, Mr. Fullerton, it seems to be forgotten that the property of the committee with the committee of the committee with the committee of the comm ten that when Mr. Evarts the other day put to me the question whether or not I had said that to the Committee—whether, o whester or not. I had said to the Committee that Mrs. Tilton had insisted that she had not violated he marriage vow—it seems to me, with all respect, both you gentlemen have forgotton that I said the substance of my remark to the Committee was that, during that time she thought she had not violated her marriage vow; not appear to her that she was violating her oath-that ned to her as if her mind were in a maze. I made that

Mr. Fullerton-No, I had not forgotten it, at ail. Mr. Evarts-That appears in the answer.

The Witness-Yes, then as to what further transpired in the committee, the main point which does not appear in the exam-mation as reported, was the statement of my charge against Mr. Boscher, before that committee, of criminal relationship with Mrs. Tilton; the confession of the same, made by Mrs. Tilton in July, 1870, and made by Mr. Beecher, half a year afterward to myself, to Mr. Moulton, to others. I do not know

that I apprehe d your inquiry.

Q. It is to be inferred from the question which, it is alleged. was put to you before the Committee, to wit: "You say, Mr. Bilton, for a year after what you stated as Mrs. Tilton's confession, she insisted to you that she had not violated her marriage vow?" Had you stated anything before that Committee, with regard to Mrs. Tilton's confession, which led to that question, and if so, what had you stated?

Mr. Evarus-I do not object to an inquiry whether he had made a statement concerning her confession which was alluded to, but then the statement of what she had stated I object to. . Fullerton-That is to say, he does not object to the que tion that is put, but would object to it if it was put in another

way. I do not see the propriety of the observation. Mr. Rvarts-Well, if it is limited; that is the point. I won't object to what is legal, but if you make it larger than the law allows, then I do object.

Mr. Pullerton-Well, the counsel must judge of its size by what it appears to be. I have put the question, and he knows exactly what it is. If it is objectionable, let us have the objection; and if not, let us have the snawer.

Judge Neilson-Weil, it amounts to a suggestion that the

witness will keep within the limited interpretation of your Mr. Fullerton-Well, then it is not an objection to the ques

tion, but an objection to the answer that has not been given. Judge Neilson-It is a suggestion. Mr. Evarts-I think, if the question is read, your Honor will

see that it is objectionable. Judge Neilson-Like most questions it might be abused, no

Mr. Evarts-We will have it read, if your Honor please Mr. Fullerton—That is no reflection on the question.

Judge Neilson—But it justifies the counsel is making a sug-

gestion on the subject. [Question read.]

Mr. Evarts—"And if so, what had you stated?"—that is the

objectionable part.
The Witness-May I not answer that?

Mr. Fullerton-I ask him if he stated snything, and if so, what he stated? Judge Neilson-Anything that led to that.

Mr. Fullerton-Yos, Sir. Judge Nellson-Go on.

Mr. Evarts-Your Honor will note my exception to the ques

A. I had stated to the Committee in writing, with my oath ap pended, the substance of the confession made by Mrs. Titon to me in July, 1870, and made by Mr. Beecher to me in December and January following, made to Mr. Moulton and to other per

DISCUSSION OVER MR. TILTON'S ANSWERS TO THE COMMITTEE. Q. What was that confession ? A. It was a con-

Mr. Evaris-What is this ? I object. Judge Neilson-What did you state there before the Com

Mr. Everts-No; I object to that, if your Honor plea

Judge Neilson—He may state that; that is a part of the sub-ject matter. What did you state there in that connection?

Mr. Evaris—Concerning her confession?

Judge Neilson—Yes.

Mr. Evaris—There your Honor has directly the point. All my inquiry was, "Did you answer this question?"

[giving it]—and the question has nothing to do with
may inquiry about the truth or falsehood of the confession or whatever it was, she insisted she had not violated her marriage

Judge Neilson-What did be state to the Committee on that

Mr. Evarts-Not exactly that, if your Honor please I don't think your Honor allows that. But, whether he stated something, and if so what, which led to that inquiry. His answer to that was, "I had stated a confession." That is in the question we start with, from the Committee's transact tions. It is in reference to the fact that he had said something asion; that is the witness's course sion is brought in. Now, if your Honor please, the witness under cover of a narrative conveyed to Mr. Beecher, has been allowed to state what he delivered to Mr. Beecher as being a confession, but has not been allowed to state what did occur between Mrs. Tilton and himself. Now, if your Honor

stated elsewhere ? Judge Neilson-Simply because on the occasion respecting which you make the inquiry, and on the same subject, he may have made a further or other statement which led to that in-That is all.

please, what right has this witness to answer interrogatories is his own behalf that are simply reproductions of what he has

Mr. Evarts-But, my inquiry was, to show before the Com mittee whether in reference to what he has already said he has not also said so and so. And he answered that he had.

Judge Neilson-And then they ask what else he said. Mr. Evarts-No, not exactly that, if your Honor please.

Judge Neikon-It seems so to me.

Mr. Evarts-Not in connection with that point, which was his
statement concerning his wife's declaration that she had not violated her marriage vow. Anything in qualification of that is one thing. All that we start with is whether, after suppose confession, "which you have referred to you have not said for wear she denied that she had violated her her marriage vow. Now, if your Honor please, when the witness answered as he "I did say so," does that allow the counsel to ask what he had formerly said?

Mr. Evarts-Well, on the one occasion-what he had said

concerning het violating her marriage vow.

Judge Neilson-When you inquire as to a part, they may in onire as to the rest of the statement on that subject-the subject being material.

Mr. Evarts-On the same occasion, and as a part of the same

Judge Neilson-No ; on that occasion.

Mr. Everts-Now, title affair lasted several days, it must ap pear that they are limited in the inquiry as to what was said on your Honor does not intend to hold a different rule of law from what we are insisting upon. I can see that a qualification then and there made to this Committee, explaining to them what he meant by saying that his wife insisted for a year that she had net violated her marriage now, would be within the purview of

evening, and, growing out of that, an interrogatory is put or Tuesday noon, all on the same subject, except as affecting the convenience of the Committee is adjourning.

Mr. Evarts-But, if your Honor will be good enough notice, anything that qualifies this witness's ement, that his wife had insisted for a year that she had not violated her marriage vow would be apposite to my inquiry, and a qualification of his answer. But this in ee not touch that at all. The very inquiry concerning you or not say that for a year after the alleged confession vow;" and he answers, he did. Now, anything tha qualifies that is admissible, but any reproduction of the confession, as then stated or not then stated, has no appositeness to my inquiry; and I ask your Honor's attention to th case of Downs v. N. Y. C. R. R. (47 N. Y., p. 83), which holds that the declaration must be simultaneous and connected. You must never overlook that point, if your Honor please, the inquiry is introduced to show an inconsistent state-

SOME OF MR. TILTON'S WORDS TO THE COMMITTEE

Judge Neilson-You had better call his attention to the question, as some time has elapsed since the question

your attention to this question which it is alledged was put to you before the Committee: "You say, Mr. Tilton, that for a year after what you stated as Mrs. Tilton's confession, she sisted to you that she had not violated her marriage vow." I ask you what took place before the Committee, at the time, with reference to any alleged confession, which led to that

Mr. Evarts-I object. Mr. Putterton - Tunt we understand by this time. Judge Nellson-He may answer that

the Fail of 1868 to the Spring of 1870.

The Witness—If I understand the question, it is, What accu-ation or charge had been made to the Committee which led to their asking me that question.

Mr. Pullerton-Yos The Witness-Is that your question ? Mr. Fullecton—Yes. What took place before the Committee which led to the asking of that question on that occasion? The Witness-I had laid before the Committee a sworn state

ment, in which I had charged Rev. Henry Ward Beecher with

relations of sexual inthmacy with Mrs. Elizabeth R. Tilton, from

MR. TILTON'S SWORN STATEMENT OFFERED IN

EVIDENCE Q. Can you turn to it there ? [Showing a paper.] A. It was in the form of a sworn statement, and I have it in my hand here. These are the exact words in which

the narrative was given.

Q. And this paper which you now furnish is what had been laid before the Committee prior to the examination of you? A. Yes. Sir.

Mr. Fullerton—Now, I propose to read this.
Mr. Evarte—That we object to. Now, if your Honor please you see the point to which this comes. They propose to prove the entire inquiry before the Committee, based on a single question which I put to the witness.

Judge Neilson-I think, Mr. Fullerton, you have gone far

enough. I don't think this is proper.

Mr. Beach—It will make it clearer if this is read.

Judge Neilson-It may; but I don't think it is proper. Mr. Fullerton-Your Honor sees that some member of the Committee, in their presence, referred to the con'ession which had been stated to have been made by Mrs. Tilton and embodied a question based upon that fact. Now, is it not proper for us to know what was before the Committee at that time with reference to that confession?

Judge Neilson-He has stated that,

Mr. Beach-But so long as it was a sworn statement, ought it not to be given before the jury, in order that they may see what it was, and how made, and in what terms. It seems to me entirely proper; because the examination of the witness before the Committee had reference to that allegation; it was an indictment, it contained a charge against Mr. Beecher. He was questioned and interrogated with reference to that charge-Now, I think the jury ought to see exactly the length, and breadth, and height, and depth of the charge as it was there put in writing, sworn to before the Committee.

Judge Neilson-Well, the question now is as to the reading of a portion of that statement.

Mr. Evarts-Now he proposes to put in evidence the whole statement. Now, it is just as if the witness on the stand at a trial has given evidence in a case on a particular point, and is examined as to whether he did or did not in answer to a question, make a certain answer, and he admits that he did, and then that being in a case in which there was a sworn bill in equity put in by him, you get up and ask to put in his bill in equity. That is precisely the situation. Everybody knows that Mr. Tilton had made an usation against his wife, and that this Committee was considering it, and because I have a ked him as to a question and answer that he made, now they say, "We can read his sworn accusation against his wife and against Mr. Beecher."

Judge Neilson-That is the question, whether when you in terrogate a witness as to a question and answer contained in an examination which has been reduced to writing, the other side can in virtue of that put in that examination. That is the

Mr. Evarts-This is a sworn accusation. This is not a part of an examination. What have we to do with that?

M. Beach—It is a part referred to by the question.

Mr Evarts-I don't see that it is.

Mr. Beach—Well, we propose to show it.

Mr. Fullerton—They need not have anything to do with it if they had kept their hands off of it.

Mr. Evarts-We have not had anything to do with it, nothing

Mr. Fullerton-Yes you did.

Mr. Evarts-We have pursued the right of our inquiry, to wit, a contradictory statement on a particular pe rules of law; and the decisions are well defined.
This is no new inquiry, and it is not a subject
of new consideration. Our Court of Appeals has of now consideration. Our Court of Appeals has passed upon it in strict limitation within the last few years, low, this is precisely the point, that when a contradictory statement, at varience with the views that the witness now presents, is enswered by him admitting it, then they seek to show that he has made other statements that were confirmatory of his present views, and not contradictory; and you cannot make

the very occasion, as a part of the evidence.

Mr. Evarts—Now, the law has said, as I understand—and I have asked your Honor's attention to the authorities -- that the occa-

sion is the qualifying limitation, if anything occurred in the very conversation concerning the question and answer; and they seek to bring here this witness's bill of accusation or indictment against his wife.

Mr. Byarts-That is the whole point of it.

Judge Neilson-That is mere talk.

was not a moral argument there, as I understand it, to show that there was an accusation against his wife. I do not regard it so at all, but that is not material.

excusatory of his wife, they seek to meet them by proving sworn statements to the contrary in respect of his wife.

oving a sworn statement or accusation on his part that she

counsel.] Gentlemen, let me hear you further on the subject,

Mr Reach-If your Honor please. I think the point under discussion has two aspects, which arise from the character of he question and answer which was called out on the part of the defense. Your Honor has said that the examination of M. Tilton before that Committee, upon the subject matter which inued, is to be regarded as a unit.

Mr. Beach-Undoubtedly correct, Sir. If the witness is nader examination before your Honor here, as has been the ease for eight days, and, upon an occasion hereafter, his testimony in an action in which he is interested is in part given in vidence against him, the rule of law applies that whatever he may have said upon the same subject during the whole of the nation is admissible. It must be so, Sir.

Judge Neilson-That was my impression. Mr. Beach-That is law, and it is justice.

Judge Neilson-That was my impression, but it was suggested that the Court of Appeals thought otherwise

Mr. Beach-The Court of Appeals, Sir, have simply decided this, and nothing more, that where a part of the de claration of a party, whether it is an unsanctioned or a sworn declaration, is given in evidence against him, all the part of that declaration which is kindred to the subject, to the part which is given against him, is admissible, and it is not a new rule of law, Sir; it is a mere affirmance of the ancient doctrine of the law of evidence. they give in evidence a portion of the testimony of Mr. Tilton before this Investigating Committee. What is our position, Sir? Not that we may give the whole com-plaint, the whole indictment, or the whole evidence which may the particular part given by the defense, not necessary to qualify or explain every subject matter which they have given in evidence, but simply that part of the proceeding before the Committee on the part of Mr. Tilton which reflects light upon the portion which they have proven. Our Mr. Tilton said upon the particular point as to which they have extracted a single question and answer of that examina-tion. And who will dispute the propriety of that, Sir? Who will attribute to the law any principle which shall prevent Mr.
Tilton from giving all that he said before that Committee upon the subject on which they have introduced but a part of his de-charations? That examination, Sir, was conducted by query and answer. The examining counsel had a peefect right change the subject at any time and at any point in the examination. Very often the same subject matter is inquired of again and again, as your Honor has occasion to know by experience upon this trial. Now, is it to be said that a single question and answer upon any given subject shall be selected by an adversary and the witness concluded, when, in the same examination and under the sanction of the same eath, before the same Court, he has qualified that answer, or oath, before the same Court, he has qualified that answer, or explained it; and is that the principle upon which the law of evidence is founded, to exclude truth instead of reaching the whole of it? If you receive a portion of Mrs. Tilton's evidence before that Examining Committee, you may convict him of inconsistency. If you receive the whole, the explanation which he gives of this question and answer, the kindred portions of his examination, intimating what he intended to express by the answer which has been given to evidence you place him in an entirely false residence. given in evidence, you place him in an entirely false position, say, Mr. Tilton, for a year after what you stated was Mrs. Tilton's confession?" This refers, Sir, to the statement

eay a certain thing, and upon that statement which you have made, I ask you this question." I submit, Sir, that the statement which had been previously made, inducing the particular question which was here put and given in evidence, is by adoption and reference part of the question itself, becomes a part of the interrogatory, and for the purpose of understanding what that statement was, what is the founds tion of this interrogatory, we ask the witness what was the statement which is referred to in this question. Does your flonor see any impropriety in it, any possibility of wrong? If, in connection with that statement, Mr. Tilton had made qualifying expressions or statements, do they not become a part of this question, and necessary to a perfect understand-ing of the question? But, Sir, they get this answer—and this estion and answer, and the significance of this discussion, has a far broader import than has been given to it—they get an answer from Mr. Tilton, that for a year after a given period his wife had persistently said to him that she had not violated her marriage yow. Did you say that, Mr. Tilton?" A. Yes, Sir, I said that. ask Mr. Titton, "What else did you say upon that sub-ject of the adultery of your wife! What else did you say explanatory of this answer? What else did she to you upon that subject which you have testified to in this examination." Is not the subject kindred, Sir? If Mr. Tilion, in answer to a question immediately preceding this interrogatory, had said: "My wife conceded to me that she had had sexual intercourse with Mr. Beecher, but in consequence of ertain relations which she bore to him, plous or religious or what not, in consequence of the deep reverence which I entertain for him, in consequence of my conviction that my intercourse with him was a rest to ffim, healthful to him, and animated him in the pursuit of his holy profession: under the seductions and impressions that a yielding to him would be an aid to the cause of Christianity and religion, l submitted myself without an impression of wrong or sin to his solicitations," would not that be evidence, Sir, evidence explanatory of this answer that my wife during that year insisted that she had committed no sig!" Cannot the answers of the witness given in the same ex amination, explanatory of the sense not only in which he gave that answer, but explanatory of the meaning under which Mrs. Tilton insisted that she had been guilty of no wrong, be permissible in a Court of Justice? Now, the rule is, Sir, as ev ody concedes, that where a portion of a declaration is given in vidence all the remaining part, tending to qualify or explain that portion which is given in evidence, is admissible. The question here is the assertion of Mr. Tilton that his wife insisted she had been guilty of no corruption; Mr. Tilton, in another portion of his examination, explains the circumstan the theory, the impressions, the doctrines upon which that assertion was made by him, and the principle the theory upon which Mrs. Tilton made this assertion in regard to her own moral purity. Now, under the rule strictly, Sir, announced in the Court of Appeals, I sub. mit to your Honor that the whole of Mr. Tilton's testimony upon that subject is admissable; and you will see, Sir, that it is necessary for the ascertainment of the truth. The charge to be made against Mr. Tilton is, in the argument to this jury: "You have said that your wife for a year insisted upon her purity. Under what circumstances did you make this assertion Why did you concede your wife to be a pure won What was the influence under which she was acting which led you to that conclusion; and why do you exhonerate her from the horror and shame which womanhood naturally and justinctively would consider the deepest crime against her nature ?" May not Mr. Tilton explain it, Sir ? Is he to carried falsely to this jury with the assertion that he considered his wife pure who had sold her body to the adulterer, and no explanation, no qualification given of the act? Why, my friend says: "That is the purpose of our evidence; it is our design to argue that question to this Court and jury; that notwithstanding Mr. Tillon accused his wife of this sdul-Honor, that upon a technical view of this question, and upon a consideration of the principle which is involved in the objection made by my learned friend, the attitude in which they necessary

notwithstanding Mr. Tilton accused his wife of this adultery he nevertheless held her as pure and unstained." And can he not say why? "What were the communications between you and your wife upon that subject, from which you derived that impression? Upon what principle of morals or of virtue is it that you made the declaration that your wife was sinless and pure?" It seems to me your Honor, that mone a technical view of this angular to me your

ained in Articles HI, and IV, of this statement, relating to the very subject of this question, and to a degree explaining the nything more out of it than that.

Judge Neilson—We have allowed that as far as the occasion

Judge Neilson-Oh, no, not against his wife.

Judge Neilson-That is not material, but it is not against his Mr. Evarts-It is in this connection

Mr. Evarts-Your Honor, I am right, I think, in that proposi

Mr. Evarts-We will look at the point. The point is that

Judge Neilson-The wife was not on trial there, and she is Mr. Evarts-Well, that is as it may be, in some views and

connections. I say that the only pertinency on which they in-troduce it here is to break the force of his statements that his wife had insisted she had not violated her marriage vow, by

Judge Nellson-I understand you, I think. [To defendant's

ARGUMENT OF MR. BEACH.

clate to matters not essentially and intimately connected with bject is, Sir, to get the whole truth, to get all that and do gross injustice to the administration of the law, I say, with great respect, Sir. Now, allow me to refer to this "Did you, upon being asked this question: 'You

ously made by Mr. Tilton. It was upon that statement

Mr. Tilton, by this question and answer, we are entitled to this evidence. Now, Sir, in this statement, which was the statement referred to by this question, Mr. Tilton does state in writing some of the circum-stances and impressions that led him to this answer. I will not read them, Sir, but I offer them, and they are con

motives which led Mr. Tilton to give the answer, the answer adopting this statement to that extent as the foundation upon ch it is addressed to the witness. It is essentially part of the question by the very phraseology of the inquiry, and it is a part of the answer, the substance of the answer to the question, upon the same subject, expressing the same idea, not as my friend says, contradictory of the answer, by any means, or a statement of a foreign fact, which will conflict with the answer, but a deliberate, prepared, written statement, explaining to a certain degree the views which are contained in that answer. I submit to your Honor it

> Mr. Evarts-I propose now to close the argument, if my learned friends have said all they wished to say.
>
> Mr. Beach—Well, I hope that will be a practice that will continue during the trial, that the objector shall close the argu-

ment. It has not heretofore. ARGUMENT OF MR. EVARTS. Mr. Evarts-My learned friend who has last ad-

It is not an inquiry at all what Mr. Tilton thought of his wife's innocence or of his wife's purity; what theory he had of an adultery that left an adulteress pure; not a word of that kind. The question had nothing even to do with any theory or scher or reasoning of Mrs. Tilton, if she had any, by which an adul teress was nevertheless pure, from the holy character of a adulterer. The question is this, and a plain and simple one and has to do with the direct test, not of these vaporous and cloudy schemes of innocence and guilt, but whether as matter of fact, after an imputted confession on the part of this husband alleged, the wife had not insisted on—purity? No. On exculpation because of the circumstances of guilt? No. But on the simple straight-forward question. "You say, Mrs. Tilton, for a year after what you stated as Mr. Tilton's confession, she insisted to you that she had not violated her marriage vow." Now that is a question fact, whether a woman has violated her age vow. An intelligent woman knows whether has violated her marriage vow. It is not metaphysical, it is not mystical, it is not in Heaven's high Court whether the temptations or the overshadowing influence shall excuse or pardon. It is the fact of the adultery of the body, s known and understood of all men and all women. And he answers that he did say so, that she did say so; that he did say that she did say she had not violated her marriage vow; and

that is a contradiction of an assertion that she had viola Judge Neilson-Where is that assertion-in the statement

that they propose to read?

Mr. Evarts—That she had violated her marriage vow, that she had committed adultery. That is the very point of the inquiry, and now they seek, not as they profess, in obedience to the quirements of the rules of evidence, some statement then and there made, in the sense that the law considers it then and there nade, in qualification of this husband's assertion that his wife had insisted that she had not violated her marriage vow-they do not seek to say, to explain by that that he did not mean that she had not violated the marriage that has nothing to do with the question but the question is, whether he made a qualifying state ment reducing, impairing, affecting his recognition of his wife's statement for a year, that she had not violated her marriage yow. And what do they propose in reduction of that? Why his accusations; that is all. Does that qualify his statement

that his wife insisted she had not violated her marriage vow? Mr. Beach-Permit me to interrupt you, Mr. Evarts, by say. ing that this answer goes far beyond that simple que whether or not the wife had violated her marriage vow, as Honor will see by reading or hearing read the question; answer, did you say 'yes, Elizabeth was in a sort of vaporous like cloud; she was between light and dark; she could not see that it was wrong; she maintained to her mother in my presence that she had done no '-and going on with a much longer answer to the question, and all presenting the real question by this answer in the mind of Mrs. Tilton as to whether the accepted act of the richation of her person was a moral wrong, or adultery, in th which the gentleman says all the world understands it.

Mr. Evart—Now, that does not touch the point. He finds the qualifying circumstances in the answer itself.

Mr. Beach-Some of them. Mr. Evarts-Let him find other qualifying eironmetances.

Beach-That is just what I propose to do. Mr. Evarts-Oh! but you do not. You do not pro show that this witness, in answering that question, and in con pection with that question, of whether his wife had not insisted that she had not violated her marriage vow, had made qualifications of that in so insisting. Now that the husband charged his wife, that he charged her before the Committee, that he wife, that he charged her before the commission, has an charged her in the publication—that is not a matter of dispute. We start on the basis that there is an accusation and an inquiry: and then one point of evidence comes out on that inquiry and now the distinct proposition to your Honor is, this witness'-present witness' bill of indictment, his Now of accusation, in the phrase of the civil law, is to be in evidences as bearing inpos the questions of whether or no he did not make that answer to that particular point of inquiry. Now, that is all. Now, the paper by itself can be no evidence at all. It is his own act of a sation. How can it be a form of secondary evidence concern ing any principal fact that is alleged within it, especially when

fendant, if when the law professes to seal from inspection, in pursuit of justice, confidential communica-between husband and wife, there is this avenue open of secondary and irresponsible, not traversable and not searchable presentations of what so happened, by these second hand narratives. Now, in regard to what has been nar-rated to Mr. Beacher by the control of the cont rated to Mr. Beecher by this witness under the ruling of your Honor, that of course came in view, not as having oc-curred between him and his wife, but as being a narrative that he had conveyed to Mr. Beecher. Now, when testing cannot be taken from this witness on the question of what did actually occur, they seek to put in evidence a form of accusation that he has presented before some tribunal; and I think your Honor will see that if it were a Divorce Court, an equity swit, a proceeding concerning divorce between these parties that the introduction of the complainant would not be permitted, under cover of a refutation or qualification of an inconsistent answer that had been made by a witness. New, I have before me the two cases from the Court of Appeals, one of Downs v. The N.Y. Central R. R. Co., in which the answer was excluded, the only pretense of introducing it being that it formed a part of a conversation that had been introduced on the other

of a conversation that had been introduced on the state state side; and the Courts say:

"The question was objected to as leading, and that it was incompotent to prove the plaintiff's declarations. The evidence was not inconsistent with the declarations proved by the defendant, but it tended to corroborate testimony of the plaintiff by the fact that his statements had been consistent. This was not allowable. The conversation was not proved to have been a part of the same given in evidence by the defendant." Judge Nellson-That would have been fatal proof, of course.

Mr. Evarts—[Reading]:
"Had it been so the evidence would have been competent

The plaintiff could have proved the whole of a conversation, part of which the defendant had given in evidence if it was conceted, and all related to the same subject." Judge Neilson-That is found in every text book we have on evidence for half a century.

Mr. Evants-Nevertheless, Courts are used, your Honor, in

order to apply them to particular circumstances. Judge Neilson-Yes, Sir. Mr. Evarts-And it is not, I take it, to be imputed to me as inconsiderate to ask attention to the last consideration of the subject by the higher Courts of the State.

Judge Neilson-Oh, no.

Mr. Evarts-In the case of Rouse v. Whited:

Mr. Evarts—in the case of rouse r. winter.

"The plaintiff showed that his property had been applied to the defendant's use in payment of a note made by the defendant and endorsed by the plaintiff. Proved that the defendant pointed out the property to the Sheriff and declared that it was the plaintiff's. Held, that the defendant was entitled to prove his statement in the same conversation, that the note was the plaintiff's debt and he was to pay it."

And it is put expressly upon the ground that the law rests And it is put expressly upon the ground that he had upon the rule that when the plaintiff awards himself of a statement or admission of the defendant to charge him, the dendant may avail himself of any other statement made by him, at the same time tending to destroy or modify the use which the plaintiff might otherwise make of the admission or statemen first called out by him, but it is only whatever is such qualificatlon and modification arising as a part of that state Now, whenever a libel in a divorce suit, mont. Now, whenever a root in a sevidence per se in favor of the party who signs and makes it to qualify a statement that he has specifically made on an examination, whenever an authority to that extent can be produced, then, perhaps, the present proposition of my learned friend, which is to intro-duce the bill of accusation in qualification of a specific answer.

may find some strength.

Mr. Beach—Let me correct that, Mr. Evarts. This is not a bill of indictment, Sir, or an equity bill. It was a sworn statement of facts, of evidence submitted to this Examining Comnittee upon their call upon this witness as a witness before them. It was a part of his evidence submitted to that Com-

Judge Neilson-I still think that I cannot allow you to that paper. It was a paper previously prepared. It is not a part of the conversation in respect to which they inquired, but an independent, deliberate act of the witness, a presentation upon which inquiry and examination was to be made, and afterwards, as has been proved, was made. I think you cannot read that paper.

Mr. Beach-Nor any portion of it, Sir ! Judge Neilson-Besides, I think this supposed discrepance has been clearly explained. We have his theory.

Mr. Beach—That may be, Sir. We shall want to offer—

order to point an exception, being reasonable in that respect, of The Court here took a rucess until 2 p. m.

ANOTHER EFFORT TO GET THE SWORN STATE-MENT BEFORE THE JURY. Mr. Fullerton-Your Honor having rejected the third and fourth paragraphs of the sworn statement of Tilton, with reference to the question I put to him, I make

an offer of them. Mr. Evarts-I submit to your Honor that you have ruled upon the question of the written paper, and it is not necessary hat any part of it should be read to your Honor. Your ruling was made upon grounds quite irrespective of anything that is

in ft, and I must object to its being read. Mr. Beach-Your Honor has passed upon that question twice, and it has been the habit of the counsel on both sides to do this.

Mr. Evarts-No; not where the Court passes upon it irrespec tive of anything that is in the paper. There is no possible ground for reading anything, when the question is passed upo grounds irrespective of the contents; and it is not pertinen to the point of inquiry.

Mr. Beach-How shall we see that it is not pertinent, without making an offer of the paper? Mr. Evarts-Whenever you make your bill of exceptions, then you can introduce it.

Mr. Fullerton-The bill of exceptions will be made by Mr. Evarts-I was only advising you when you will have nake your bill of exceptions you can then use it.

Mr. Beach-This is no new question, Sir; it has been passed roon at different times. Judge Netlson-The objection is that the ruling is not based on anything contained in the paper, but is independent of

ontents, and therefore it is not necessary to read it.

Mr. Beach—Can we not make an offer of proof, Sir? Mr. Evarts-You are under the direction of the Court. Mr. Beach-Therefore I ask the Court if it prohibits us from naking an offer of proof. Judge Neilson -- In the other instances where papers were ex

cluded, certain clauses in the papers were referred to to point Mr. Beach-I would like to know, if your Honor please whether it is to be ruled that we cannot make an offer of

Judge Neilson -I think you can. Mr. Evarts—I object to counsel reading any part of this paper which your Honor has excluded.

Mr. Beach-I am not reading anything; I am going to make an offer of proof. Mr. Evarts-Let us see. Counsel must be held to their own proposition. The counsel has said that, your Honor having ex-cluded the third and fourth paragraphs of the sworn statement,

e now proposes to read them. Judge Neilson-He now proposes to make a certain offer Mr. Basch Your Honor will please to recollect that you per mitted them, in regard to the "True Statement," to rea whole of it in sections and offers to prove k. You did the same thing in regard to the Woodhull story. You have done

Judge Neilson-In regard to the Woodhull scandal? Mr. Beach-Yes; and also in regard to the Biography of Mrs. Mr. Pailerton—And, although it was then ruled out, it was embraced in the form of offers by the learned counsel.

Mr. Evarts-I am prepared to discuss these propositions. In he first place, what might have seemed an evasion of the rule was introduced by my learned friends when they were going or ith their case. When it was proposed to read from the Woodhull Life the Court ruled it out on the ground that the plaintiff ould not be held responsible for opinions expressed in biography any more than a histories. Therefore, upon my cross-examination I introduced no parts of it but those which purported to express the individual opinions of this witness of Mrs. Woodbull and her tenets; and I seked him the distinct ight, and in that light alone, the passages were introduced. With reference to the Woodhull scandal, I had a right to prove, after it had been offered on the direct examination-they having said that the Woodbull candal and the Woodhull story was made a subject of discussion between Moulton and Beecher and Tilton. I had what thought was a clear right thereby to prove the Woodhulf story; and your Honor limited me to that part of it that I could produce as being the subject of consideration before them, and I by this witness a destroyed paper. Having proved its destruc-tion, and that no copy was preserved, I then read to him and seked him if that was not a part of the paper. It was direct proof; it was a mode of proof which was allowable by the law in respect to a destroyed paper. And that case has nothing to

Mr. Fullerton-How about the Clarke letter !

Mr. Fullerton-But you reed part of it. Mr. Everts-I asked him whether that was submitted to hem

a matter of treaty and negotiation by Mr. Clarke. Mr. Beach-You asked him if he did not make certain state nense which you read from the Clarke letter.

Mr. Brarte-I neked him a two-fold question, and I had a two old object. I asked whether he had seen the Clarke letter, and he said that he could not say if he had not, and he could not say if he had. the Clarke letter, and things that were, as matter of fact, in the Clarke letter, and only such whether those propons were made to him by Clarke, and were the sub negotiation, as a matter of fact, as to the abandonment of The Golden Age, or giving it up, or this, that, and the other. So husband and wife, of the nature your Honor rules, and unde we the question refer to and adopt that statement Six ? "Xou | Xour Hours sees the hardenly upon this nife and apon this de ! ment, known and understood, ninch they claims right to put in

evidence, and which your Honor has excluded, and now they propose to read, as a part of their offer to your Honor, parts of propose to read, as a part of their offer to your honor, parts of that statement. It is like reading a deposition, or any other document which the Court has ruled out as inter alios, and not to be read. Now, there is no point to any exception to be gained by the particular contents of this paper. The proposition has been made to your Honor, and you have disposed of the question, that it does not come within the rule of reduction or analidence of the particular exceptions. qualification of the particular statement concerning which the vitness has been examined; that all the qualifying stances are perhaps contained in the paper itself. At all events that this document, this accusation or indictment, whatever it is, is not admissible. Now, what rule of evidence is there that admits the reading of any part of that paper which your Honor says shall not be read. It is not because of anything in the paper—it is the paper itself that your Honor has ruled is not t

Mr. Beach-I offer to prove, Sir, that upon the same ation, before this Committee, when he gave the answer to the question which has been given in evidence by the defendant, he also made this statement, and I propose to make the statement to your Honor, if you allow me to do so.

THE SWORN STATEMENT RULED OUT.

Judge Neilson-I propose to allow you, in order to fix and have the benefit of the exception, to make an offer, al-though that offer may (I don't know that it will) involve the reading of some part of the paper before you. The paper itself is ruled out; and if, in making your offer, you use the expressions of the paper it will be again ruled out, probably. But I

allow you to make your offer in such terms as you propose Mr. Beach-Then I make the offer under the statement that we propose to prove that Mr. Tilton, upon the occasion which have stated, made this statement orally to the Committee

have stated, made this statement orally to the Committee;

That about nine years ago the Rev. Henry Ward Beechee began, and thereafter continued, a friendship with Mrs. Elizabeth it. Titton, for whose native delicacy and extreme religious sensibility he often expressed to her husband a high admiration; visiting her from time to time for years, until the year 1870, when, for reasons hereinafter stated, he ceased such visits; during which period, by many tokens and attentions, he won the affectionate love of Mrs. Tilton, whereby, after long moral resistance by her, and after repeated assaults by him upon her mind, with overmastering arguments; accomplished the possession of her person; maintaining with her thenceforward during the period hereinafter stated the relation called criminal intercourse; this relation being regarded by her during that period as not criminal or morally wrong—such had been the power of his arguments as a clergyman to satisfy her religious scraples against such violation of virtue and honor.

Mr. Evarts—Now, if your Honor please, I object to the evi-

Mr. Evarts-Now, if your Honor please, I object to the evidence thus offered, as ruled out by your Honor already, and therefore, needing no argument upon its merits; and I object to any further reading from the paper, as a necessary means, or an appropriate, or admissible means of bringing to your Honor's notice the point of evidence concerning which you ruled.

Judge Neilson-This offer I overrule. Mr. Beach-And we excent

THE VEXED QUESTION AGAIN DEBATED.

Mr. Evarts-If the paper needs to be identified by your Honor it may be so marked; but as for this right, when there is the exclusion of a paper, independent of its contents, Mr. Beach [interrupting]-It seems to me, if your Honor

please, that the counsel should not be permitted to reargue th question upon which your Honor has ruled.

Judge Neilson—It may be beneficial to me, perhaps Mr. Beach-Is he asking you to review the decision which you

Judge Neilson-No; I do not so understand it. Mr. Beach-Then there is no question before your Honor. Mr. Evarts-I do not know that. This is, in a certain sense,

within the discretionary control of your Honor, (perhaps not governed by any rule of law to that extent); but when the procedure of the learned counsel has indicated that it is the reading of a paper which has been excluded, I then submit that it is within the rule which excludes a paper, and its reading cannot be permitted. Mr. Beach-In the first place, I deny that it is within

your Honor's discretionary power to forbid my making an offer of proof; and, in the next place, when I make such an offer, I have a right to derive my information from any source, and it is not for the counsel or the Court to decide whether I shall hear it from my learned associates, or read it from a written offer prepared, or draw it from the evidence actually given before the body to which the question relates. Judge Nellson-You have a right to offer specific points in

Mr. Evarts—There I think my learned friend is wrong. (Laughter.) The Court has a restraint over all such proceedings. The general proposition, no doubt, is this, that in restraint of counsel and their zeal in a cause, the better rule is to confine them to questions, without offers. Offers, however-are admitted in the discretion of the Court, whenever it appears to the Court's observation that an offer is appa rently necessary, or useful, to raising the point to be decided by the Court better than by a mere question. Now, when after the decision of the Court, that the paper shall not be offered in evidence, nor received in the cause, counsel thereupon under-take to read the paper as a renewed offer to prove, the Court sees that it is but a substitution, in a form that introduces the excluded matter, for the same ruling that has been given to ex-

clude the matter.

Judge Neilson-Allow me to remind you, Mr. Evarts, that that is the precise position in regard to the Bessie Turner

Mr. Beach-Your Honor means the Clarke letter Judge Neilson-No, the Bessie Turner letters. They were offered in evidence and excluded, and then, if my recollection serves me, they were read in this precise manner. Mr. Beach made the objection first, and then in your offer, Mr. Evarts, you stated the contents, and Mr. Beach withdrew his objection to the first letter, and then, in like manner, to the second.

Mr. Evarts—In that case, if your Honor please, after you had

ruled out the letters, had I not the right to ask this witness whether those reasons were the reasons for Bessie Turner going Judge Neilson-And in doing that you read the letters. Mr. Evarts-it does not follow that I could not read a paper as the basis of a proper inquiry to the wit-

ness, because it had been ruled out as evidence. I never have anded for that doctrine. Judge Neilson-The letter had been rejected?

Mr. Evarts-It had, as evidence per se; but it did not follow that I could not make it the basis of an inquiry to the witness. It might be made evidence by the witness' statements concerning it. But my proposition to your Honor is that this is nothing but the reproduction of proposition of evidence in a form that produces the matter of paper that has been excluded, which paper your Honor has

excluded, whatever its matter was. Mr. Beach-Your Honor has permitted me 'to pre sent a part of my offer, and the counsel then interrupts me, in the course of my proposition, with the objection that there is some sort of professional impropriety in the course which I am taking, as it introduces the immediate subject matter, in the shape of an offer, proposition or ques which had been excluded by the Court. Your Honor excluded the Victoria Woodhull biography; you Honor excluded the Victoria Woodhull statement of this scandal; your Honor excluded the Clarke letter; and yet, in each and every of these particulars, introducing the very sub-ject matter which you did exclude, and for the purpose of get-

ject matter when had the record, the counsel read the very matter which had thus been excluded, and now he appears with the objection to my limitation of that example.

Judge Nellson—Am I right in my recollection about the two Bessie Turnor letters.

Mr. Beach-Yes, Sir.

Judge Neilson-I ruled them out. Mr. Beach-Yes, Sir. Judge Neilson-On your objection Mr. Beach: Mr. Beach—Yes, Sir.

Judge Nellson—Then the point is, that in the form of an
offer they stated the contents, and you withdrew your objection

to the first letter, and in like manner to the second.

Judge Neilson-Now you have a right to make your offer to the Court.

Mr. Evarts-I have, I believe, the right to close the objec-Br. Beach-I do not know whether it follows that the gentlenan has the right to close the objection when I make an offer Mr. Everts-I object to your offer, and I have the affirmative of the proposition.

Mr. Beach-No, Sir; I have the affirmative of the proposition in making the offer.

Judge Nelison-I think so. But still I would like to hear

Mr. Evaris. Mr. Beach-If your Honor thinks me right, I hope you will give me the benefit of being right occasionally. Judge Nellson-Hereafter, yes, Sir. [Laughter.]

Mr. Rvarts-Now, if your Honor please, here is a written and signed by the witness, it is said, which has been offered in evidence. The Bessie Turner letters were letters written by a third person, and as so written, equally with the Clarke letter until they were brought into some connection with the witness, with the party, the plaintiff—they could not be given in evidence. I shought they could be ead under the degree of evidence that had affected them Your Honor thought not, and they were excluded therefor, being the acts of third persons and so inter offer until such evidence was given connecting the party with them. Now, I, baving in formation that the Bessie Turner letters conveyed to me, and that the Clarke letter conveyed to me undertook to extrac from the witness his testimony that the statements therein con-tained had been brought to his notice and to inquire concern ing them, and there was my examination, and only there I submit to your Honor. Now, this point that I have submitted to your Honor, that the Court will exclude a reproduction in an oral form of a document that is excluded, when all that is served is to get a ruling of the Court upon an oral presentation in place of that already given upon a writter one, is carried so far in some of the Courts of the neighbouring States that they will not permit it to be made a subject of oral examination in Court when a basis is proposed to be raiseddesired to be raised, for introducing the instrument. Now, is ground, as I am advised, that that rule of the sister States' urts, which requires a basis to be made by affidavit to b Lind before the dudies would be it enforced with an contrary

to our notions of the right of cross-examination, con any matter that came to be the subject of any matter that came to be the subject of evidence. But of the general proposition that offers are not to take the place of excluded testimony, and that when the Court has before it definitely the proposition that the document excluded is so excluded irrespective of anything that is in it and that the renewed force of offer is nothing but an oral production of the document, I apprehend there is no diversity and no lack of distinctness in the ralings of our Courts upon that subject.

THE PINAL DECISION ON THE SWORN STATEMENT, Judge Neilson-1 do not rule that the couns-1 shall be stlowed to make an offer for the sake of reproducing part of the decument ruled out. I simply allow him to make such offer as being professional, if he feels called upon to make it with a view of an exception which he may wish to take, supposing that to be material to his rights.

Mr. Beach-Will your Honor please remark, in making that ruling, that our previous offer was to read from the sic ment ?

Judge Neilson-I will note it.

Mr. Beach-I have proposed now to prove that this with "se orally made the statement which I am about to submit in my proposition, to the same tribunal, when he answeres the question which has been given in evidence by the connect or other side and in regard to the same subject matter that he Mr. Evarts-Woll, do you mean that he read his statement

to the Committee?

Mr. Beach—I mean just what I say.
Mr. Evarts—Well, I think I am entitled to an understanding Mr. Beach-Well, that depends upon whether I consider you

understanding pertinent to my purposes. [Laughter.]
Mr. Evarts—I think it is.

Mr. Evarts-The purpose for which we are here.

Judge Neilson-Well, I have been waiting for some time

Mr. Evarts-I except to your Honor's raling that the offer nay be repeated in the form that is now allowed. Mr. Beach—And under the same conditions to the offer just rejected, Sir, I offer to prove that upon the occasion referred to Mr. Tilion

stated to the Committee that on the evaning of October 19th, 1868, or thereabouts Mrs. Elizabeth R. Tilton held an interview with the Rev. Henry Ward Beecher at his residence, she then in a tender state of mind owing to the recent death and burial of a young child, and during this interview the act of criminal commerce took piace between the paster and this parishloner, sae motive on her part being, as before stated, not regarded by

her at the time criminal or wrong, which act was followed by a similar act of criminality between these same parties at Mr. Tilton's residence, during a pastoral visit paid by Mr. Beccher to her on the subsequent Saturday evening, followed also by other similar acts on various occasions from the Autumn 1868 to the Spring of 1879, the places being the two residence aforesaid, and occasionally other places to which her paster would invite and accompany her, or at which he would meet her would invite and accompany act, or a which is which the by previous appointment, these acts of wrong being on her part from first to last not wanton or consciously wicked, but arising through a blinding of her moral perceptions occasioned by the powerful influence exerted on her mind at that time to this end by the Rev. Heary Ward Beegher, as her trusted preceptor and

Judge Neilson-That is ruled out; the offer is denied. Mr. Beach-And we except, Sir.

MR. TILTON'S EXAMINATION TEMPORARILY SUS-PENDED.

Mr. Fullerton-If your Honor please, at the close of yesterday's proceedings we supposed that the re-direct ex-amination and the re-cross of Mr. Tilton would occupy but a small part of to-day, consequently we provided ourselves with a witness from the City of New-York who is now present waiting to be examined. She is in very bad health; has been for a long time under medical treatment, and is still under medical treat ment, and it is absolutely necessary, I think, for her health, that she should return to the city to-day. I therefore ask your Honor's permission to suspend the further examination of this witness, to examine the witness to whom I refer.

Judge Noilson-What do your opponents say to that? I have Mr. Fullerton-It is very short and will not occupy more than

Judge Nellson-Is that agreeable, Sir. Is that arrangement satisfactory, Sir? Mr. Evaris-We ought to be entirely certain, if your Honor please, that the witness will be able to attend if the cross-ex-

mination should be prolonged. Mr. Fullerton—Oh, yes, Sir. Mr. Beach-Yes, Sir; certainly; that is our hazard by law. Mr. Evarts-Well, you say that she could not be able to come

Mr. Pullerton -I say that she is under medical treatment and desires to return to the city of New York to-night, and must de so, and I have no doubt but what her direct and cross-examinatto, will be completed before the hour of adjournment. Juda" Neilson-Then the anxiety is about the cross; whether she could attend to-morrow.

Mr. Fullerton - Well, Sir, she will have to attend to-mo

if they do not get through, however inconvenient it may be; but If they do not get the occasily for her return will not exist at the close of the day.

Mr. Beach—Why, it is very well understood, Sir, that we lose the benefit of her examination if we do not produce her.

Mr. Evarts-Oh! I know-your examination-I know his Honor don't think so entirely about those results.

Judge Neilson—I assent to this cheerfully it the counsel will agree to it. You may leave the stand, Mr. Tilton. Mr. Fullerton-It is all within the province of the Court, Si Judge Neilson—I don't understand there is any objection, if you agree to produce the witness for cross-examination.

Fullerton-Of course we must, Sir, or lose her test! Mr. Evarts-It is within your Honor's control, no doubt. The witness referred to here stepped to the stand and the path was administered by the clerk. When he had recited the formula she repeated after him : "I solemnly swear the truth

I will tell and nothing else." Judge Neilson-Kiss the book.

The Officer-What is your name ?
The Witness-Kate Carey, Kate Smith and Carey-I went by
Mrs. Smith. TESTIMONY OF MRS. KATE CAREY.

M. Fullerton-Where do you reside? A. I am

rom the hospital, Sir-Bellevue ; I have come now-Q. From Believue Hospital? A. Bellevue Hospital. Q. In New York? A. Yes, Sir; I have been there eleven weeks sick-severe cold.

Q. Severe cold ? A. Yes, Sir. Q. Do you recollect the time that you went there; the day of he month? A. The day I went; no, Sir, I don't.
Q. In what ward were you? A. Twenty first, Sir.

Q. Under whose immediate care ! A. Dr. Shafer and Dr. Q. Where did you reside before you went there? A. In Ir-

Q. With whom? A. Weil, the name really I can't pronounce, but they were English Jews; it was near Seventeenth-st - 55. Q. How long did you live there ? A. One month; I was sick

dore Tilton? A. Yes, Sir.

Q. In the city of New York ! A. Yes, Sir.

Q. You were sick there ? A. Yes, sir. MRS. CAREY A SERVANT IN THE TILTON . FAMILY.
Q. Did you ever reside with the family of Theo-

Q. When? A. I was the first wet nurse that wet nursed the

Q. Which baby was that ? A. Ralph. Q. The baby Ralph? A. I believe that is the name.
Q. Do you recollect the year that you went there? A. I de-

Q. How many years ago was it ? A. It is, I believe, six Q And what season of the year was it when you went? A. In the Summer, Sir; June.

Q. How long did you remain with Mrs. Tilton? A. Four

Q. As wet nurse? A. As wet nurse. Q. And during that time, did Mrs. Tilton go away from home

mywhere ? A. To Monticello, Sir. Q. How long did she remain there? A. Very short, Sir ; I think it was three weeks or a month; I am not sure, Sir Q. In the Summer season? A. Yes, Sir. Q. Did you go with her? A. Yes, Sir.

Q. And did you remain there so long as she did? A. Yes, Q. And then did you return with Mrs. Tilton to Brooklyn? Q. And how long did you remain with her after you returned?

A. I remained until the cold weather came—to make the fires.

MR. BEECHER DESCRIBED AS A CLANDESTINE VIS-ITOB. Q. During the time that you lived with Mrs. Tilton, did you see Henry Ward Boscher? A. I did, Sir.
Q. Where did you see him? A. I saw him going into Mrs

Tilton's room several times before we went to the country, shutting the door after him, but I did not notice or hear any Q. What room was it he went in and shut the door after him?

A. In her own bed-room.

Q. Where was that situated? A. Right over the hall as you

come in; there is four rooms on one floor.

Q. It is a double house, is it? A. No, Sir; it is a small rame cottage house. Q. And where were you when you saw him go into her bed room! A. I was in the next room, Sir; there is folding doors

Q And you say him so in those! A Yea Sie